

**IN THE UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION AT AKRON**

<b>IN RE:</b>	)	<b>CASE NO. 10-50494</b>
	)	
<b>FAIR FINANCE COMPANY</b>	)	<b>ADVERSARY NO.</b>
	)	
<b>Debtor</b>	)	<b>IN PROCEEDINGS UNDER CHAPTER 7</b>
	)	
<b>BRIAN A. BASH, TRUSTEE</b>	)	<b>JUDGE MARILYN SHEA-STONUM</b>
<b>3200 National City Center</b>	)	
<b>1900 E. Ninth Street</b>	)	
<b>Cleveland, OH 44114-3485</b>	)	
	)	
<b>Plaintiff</b>	)	
	)	
<b>vs.</b>	)	<b>COMPLAINT</b>
	)	
<b>FCS ADVISORS, INC.</b>	)	
<b>dba BREVET CAPITAL ADVISORS</b>	)	
<b>666 Third Avenue, 29<sup>th</sup> Floor</b>	)	
<b>New York, NY 10017-4011</b>	)	
	)	
<b>and</b>	)	
	)	
<b>WESTCHESTER FIRE INSURANCE</b>	)	
<b>COMPANY</b>	)	
<b>c/o ACE, USA</b>	)	
<b>1133 Avenue of the Americas, 38<sup>th</sup> Floor</b>	)	
<b>New York, NY 10036</b>	)	
	)	
<b>and</b>	)	
	)	
<b>CLERK OF THE UNITED STATES</b>	)	
<b>DISTRICT COURT FOR THE</b>	)	
<b>SOUTHERN DISTRICT OF NEW YORK</b>	)	
<b>500 Pearl Street</b>	)	
<b>New York, NY 10007</b>	)	
	)	
<b>Defendants</b>	)	<b>TYPE: PREFERENCE RECOVERY; TURNOVER</b>

Now comes Brian A. Bash, Trustee, the plaintiff herein, and, for his causes of action against the defendants, states as follows:

## **I - JURISDICTION AND PARTIES**

1. This court has jurisdiction over the within adversary proceeding pursuant to 28 USC section 1334 and 28 USC section 157(b)(2), (F) and (E) and the claims set forth herein are core proceedings within the meaning of the United States Bankruptcy Code.

2. The plaintiff, Brian A. Bash, is the duly appointed, qualified, and acting trustee for the debtor, Fair Finance Company, having been appointed trustee pursuant to designation of the United States Trustee following the filing of its involuntary bankruptcy petition on the 8<sup>th</sup> day of February, 2010.

3. The defendant, FCS Advisors, Inc., is a corporation conducting and engaging in business activities in the state of Ohio or engaged in business with the debtor, an Ohio Corporation.

4. The defendant, Westchester Fire Insurance Company, is an entity engaged in business, including the issuance of bonds to secure the performance of obligations.

5. The Clerk of the United States District Court for the Southern District of New York is a federal employee and the custodian of certain records including bonds posted in such court and with respect to judgments rendered by such court.

## **II - FIRST CLAIM FOR RELIEF**

6. The debtor, Fair Finance Company, incurred a debt owing to FCS Advisors, Inc., dba Brevet Capital Advisors, which was liquidated by a judgment entered by the United States District Court for the Southern District of New York on the 20<sup>th</sup> day of May, 2009 and amended on the 10<sup>th</sup> day of June, 2009 in case #07CV06486.

7. The debtor did transfer a property interest of the debtor to the defendants by filing a supersedeas bond in the amount of \$1,905,056.

8. That such bond was approved by the United States District Court for the Southern District of New York on the 10<sup>th</sup> day of November, 2009 and effectuated a transfer of such property interest on said date and discharged liens, garnishments, executions, levies, discovery demands, and all other judgment enforcement remedies and proceedings taken in connection with the enforcement of the amended judgment and stayed such actions pending determination of the appeal as further reflected in the case docket, a copy of which is attached as Exhibit A and made a part hereof.

9. That such transfer was to or for the benefit of FCS Advisors, Inc., a creditor of the debtor at the time of the transfer.

10. That such transfer was for or on account of an antecedent debt owed by the debtor before such transfer was made.

11. That such transfer was made while the debtor was insolvent.

12. That such transfer on November 10, 2009 was made on or within 90 days before the date of the filing of the petition on February 8, 2010.

13. That such transfer enabled such creditor to receive more than such creditor would receive if the case were a case under Chapter 7 of the this Title, the transfer had not been made, and such creditor received payment of such debt to the extent provided by the provisions of this Title.

14. That the property transferred was in the amount of \$1,905,036 in addition to all applicable fees and costs paid to Westchester Fire Insurance Company for the issuance of said bond.

15. That such amount of \$1,905,036 is property of the estate and the transfer, if any, thereof should be avoided pursuant to section 547 of the United States Bankruptcy Code.

16. That Westchester Fire Insurance Company and/or FCS Advisors, Inc., dba Brevet Capital Advisors, are the initial transferees of such transfer or the entity for whose benefit such transfer was made or are an immediate or mediate transferee of such initial transferee.

### **III - SECOND CLAIM FOR RELIEF**

Now comes the plaintiff, by and through his attorney, and hereby incorporates the allegations contained in the preceding paragraphs as if fully rewritten herein, and further states:

16. That the defendants, Westchester Fire Insurance Company and FCS Advisors, Inc., dba Brevet Capital Advisors, are entities other than a custodian.

17. That the defendant, Clerk of the United States District Court for the Southern District of New York is a custodian.

18. That said defendants are in possession, custody, or control, during the case of property that the trustee may use, sell, or lease under section 363 of the United States Bankruptcy Code.

19. That such defendants are under a duty to deliver such property to the trustee and account for it or its value.

20. That such property is not of inconsequential value or benefit to the estate.

21. That such property is subject to turnover pursuant to section 542 and 543 of the United States Bankruptcy Code.

WHEREFORE, plaintiff prays judgment against the defendants ordering turnover of such property or its value in the amount of \$1,905,036 from the defendants, Westchester Fire Insurance Company and FCS Advisors, Inc., dba Brevet Capital Advisors, and for his costs herein incurred.

GIBSON & LOWRY

/s/ Michael J. Moran

Michael J. Moran (#0018869)

Attorney for Plaintiff

234 Portage Trail

P.O. Box 535

Cuyahoga Falls, OH 44222

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(330) 929-6605 - Fax

[moranecf@yahoo.com](mailto:moranecf@yahoo.com)

/s/ David A. Mucklow

Attorney for Plaintiff

1606 E. Turkeyfoot Lake Road, Suite 140

Akron, OH 44312

(330) 896-8190

(330) 896-8201 - Fax

[davidamucklow@yahoo.com](mailto:davidamucklow@yahoo.com)

APPEAL, CLOSED, ECF

**U.S. District Court  
United States District Court for the Southern District of New York (Foley Square)  
CIVIL DOCKET FOR CASE #: 1:07-cv-06456-DC**

FCS Advisors, Inc. v. Fair Finance Company, Inc.  
Assigned to: Judge Denny Chin  
Case in other court: US Court of Appeals, 2nd Circuit, 09-  
02609-cv  
Cause: 28:1332 Diversity-Other Contract

Date Filed: 07/16/2007  
Date Terminated: 05/20/2009  
Jury Demand: Defendant  
Nature of Suit: 190 Contract: Other  
Jurisdiction: Diversity

**Plaintiff**

**FCS Advisors, Inc.**  
*doing business as*  
**Brevet Capital Advisors**

represented by **Howard J. Smith, III**  
Barton Barton & Plotkin  
420 Lexington Avenue  
New York, NY 10170  
(212) 687-6262  
Fax: (212) 687-3667  
Email: hsmith@olshanlaw.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Roger E. Barton**  
Barton, Barton & Plotkin, L.L.P.  
420 Lexington Avenue  
New York, NY 10170  
(212) 687-6262  
Fax: (212) 687-3667  
Email: rbarton@bartonesq.com  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Randall I Rasey**  
Barton Barton & Plotkin  
420 Lexington Avenue  
New York, NY 10170  
(212)-687-6262  
Fax: (212)-687-3667  
Email: rrasey@bartonesq.com  
**ATTORNEY TO BE NOTICED**

V.

**Defendant**

**Fair Finance Company, Inc.**

represented by **Mark Paul Monack**

[https://ecf.nysd.uscourts.gov/cgi-bin/DktRpt.pl?693118841387153-L\\_961\\_0-1](https://ecf.nysd.uscourts.gov/cgi-bin/DktRpt.pl?693118841387153-L_961_0-1)

**EXHIBIT**

**A**

Jaffe & Asher LLP  
600 Third Avenue, 9th Floor  
New York, NY 10016  
(212)-687-3000  
Fax: (212)-687-9639  
Email: mmonack@jaffeandasher.com  
**ATTORNEY TO BE NOTICED**

**Counter Claimant**

**Fair Finance Company, Inc.**

represented by **Mark Paul Monack**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

V.

**Counter Defendant**

**FCS Advisors, Inc.**

represented by **Randall I Rasey**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Counter Claimant**

**Fair Finance Company, Inc.**

represented by **Mark Paul Monack**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

V.

**Counter Defendant**

**FCS Advisors, Inc.**

represented by **Randall I Rasey**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
07/16/2007	<u>1</u>	COMPLAINT against Fair Finance Company, Inc. (Filing Fee \$ 350.00. Receipt Number 620815) Document filed by FCS Advisors, Inc.(laq) Additional attachment(s) added on 7/20/2007 (Correa, Julie). (Entered: 07/18/2007)
07/16/2007		SUMMONS ISSUED as to Fair Finance Company, Inc. (laq) (Entered: 07/18/2007)
07/16/2007	<u>2</u>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by FCS Advisors, Inc.(laq) Additional attachment(s) added on 7/20/2007 (Correa, Julie). (Entered: 07/18/2007)
07/16/2007		Magistrate Judge Henry B. Pitman is so designated. (laq) (Entered: 07/18/2007)
07/16/2007		Case Designated ECF. (laq) (Entered: 07/18/2007)
08/02/2007	<u>3</u>	AFFIDAVIT OF SERVICE of Summons and Complaint. Fair Finance

		Company, Inc. served on 7/24/2007, answer due 8/13/2007. Service was accepted by Lauren Futo, Account Assistant. Document filed by FCS Advisors, Inc.. (Barton, Roger) (Entered: 08/02/2007)
08/31/2007	<u>4</u>	STIPULATION AND ORDER that the time for dft Fair Finance to answer, move or otherwise pleadd with respect to the complaint in this action is extended to and including 9/7/07. (Signed by Judge Denny Chin on 8/31/07) (dle) (Entered: 08/31/2007)
09/07/2007	<u>5</u>	FIRST RULE 7.1 CORPORATE DISCLOSURE STATEMENT. Identifying Fair Holdings, Inc. as Corporate Parent. Document filed by Fair Finance Company, Inc..(Monack, Mark) (Entered: 09/07/2007)
09/07/2007	<u>6</u>	ANSWER to Complaint., COUNTERCLAIM against all plaintiffs. Document filed by Fair Finance Company, Inc..(Monack, Mark) (Entered: 09/07/2007)
09/26/2007	<u>7</u>	ANSWER to Counterclaim. Document filed by FCS Advisors, Inc..(Barton, Roger) (Entered: 09/26/2007)
10/04/2007	<u>8</u>	LETTER addressed to All Counsel from David Tam, Courtroom Deputy dated 10/3/07 re: a pretrial conference will be held on 10/26/2007 at 10:00 AM in Room 11A of the United States Courthouse, 500 Pearl Street, New York, NY 10007.(kco) (Entered: 10/04/2007)
10/04/2007		Set Hearings: Pretrial Conference set for 10/26/2007 at 10:00 AM in Courtroom 11A, 500 Pearl Street, New York, NY 10007 before Judge Denny Chin. (kco) (Entered: 10/04/2007)
03/31/2008	<u>9</u>	ORDER CASE ELIGIBLE FOR MEDIATION the above-entitled action is eligible for mediation, pursuant to the Civil Justice Expense and Delay Reduction Plan. This action is eligible for mediation subject to the limitations and restrictions as noted: ALL ISSUES ARE ELIGIBLE. This order supersedes the order dated 3/17/08. So Ordered. (Signed by Judge Denny Chin on 3/31/2008) (jmi) (Entered: 04/01/2008)
04/10/2008	<u>10</u>	ENDORSED LETTER addressed to Judge Denny Chin from Howard J. Smith dated 4/9/2008 re: Requesting an extension of time for completion of discovery. ENDORSEMENT: Application GRANTED, but only to the extent that all discovery, fact and expert, shall be completed by 9/19/2008. Final. The PTC is adjourned to 9/19/2008 at 10:30 a.m. The mediation is not a basis for further extending these proceedings. (Signed by Judge Denny Chin on 4/10/2008) (jpo) (Entered: 04/11/2008)
04/17/2008	<u>11</u>	NOTICE SELECTING MEDIATOR - Notice of selection of mediator.(sc) (Entered: 04/17/2008)
05/09/2008	<u>12</u>	ORDER; plaintiff shall file an amended complaint by 5/23/2008. Defendant shall answer the amended complaint by 6/6/08; Defendant's relevancy objection to production of documents regarding the February 2008 transaction is overruled. Additional relief as set forth in this order. (Signed by Judge Denny Chin on 5/9/08) (pl) (Entered: 05/09/2008)
05/23/2008	<u>13</u>	AMENDED COMPLAINT amending <u>1</u> Complaint against Fair Finance Company, Inc.Document filed by FCS Advisors, Inc. Related document: <u>1</u>



		Complaint filed by FCS Advisors, Inc. (dle) (dle). (Additional attachment(s) added on 6/2/2008: # 1 Exhibit A, # 2 Exhibit B) (kkc). (Entered: 05/27/2008)
05/28/2008	<u>14</u>	NOTICE OF APPEARANCE by Randall I Rasey on behalf of FCS Advisors, Inc. (Rasey, Randall) (Entered: 05/28/2008)
06/02/2008	<u>15</u>	ENDORSED LETTER addressed to Judge Denny Chin from Randall I. Rasey dated 5/28/08 re: Counsel requests that Your Honor endorse this letter to allow the attachment of Exhibits A and B to the Amended Complaint. ENDORSEMENT: Approved. (Signed by Judge Denny Chin on 6/2/08) (tro) (Additional attachment(s) added on 6/2/2008: # 1 Exhibit A, # 2 Exhibit B) (kkc). (Entered: 06/02/2008)
06/26/2008	<u>16</u>	STIPULATION AND ORDER EXTENDING TIME TO ANSWER AMENDED COMPLAINT: that the time for defendant Fair Finance to answer, move or otherwise plead with respect to the Amended Complaint in this action, be and the same hereby is extended to and including 7/11/2008. SO ORDERED. Fair Finance Company, Inc. answer due 7/11/2008. (Signed by Judge Denny Chin on 6/26/2008) (tve) (Entered: 06/26/2008)
07/11/2008	<u>17</u>	ANSWER to Amended Complaint with JURY DEMAND., COUNTERCLAIM against all plaintiffs. Document filed by Fair Finance Company, Inc.. Related document: 13 Amended Complaint, filed by FCS Advisors, Inc.. (Attachments: # 1 Affidavit Affidavit of Service)(Monack, Mark) (Entered: 07/11/2008)
10/01/2008	<u>18</u>	ENDORSED LETTER addressed to Judge Denny Chin from Ira N. Glauber dated 10/1/2008 re: Requesting a one week extension of time to file their summary judgment motions. ENDORSEMENT: Approved. Both dates are extended one week. (Signed by Judge Denny Chin on 10/1/2008) (jpo) (Entered: 10/01/2008)
10/10/2008	<u>19</u>	MOTION for Summary Judgment. Document filed by FCS Advisors, Inc.. Responses due by 10/31/2008(Rasey, Randall) (Entered: 10/10/2008)
10/10/2008	<u>20</u>	DECLARATION of Mark Callahan in Support re: <u>19</u> MOTION for Summary Judgment.. Document filed by FCS Advisors, Inc.. (Rasey, Randall) (Entered: 10/10/2008)
10/10/2008	<u>21</u>	MEMORANDUM OF LAW in Support re: <u>19</u> MOTION for Summary Judgment.. Document filed by FCS Advisors, Inc.. (Rasey, Randall) (Entered: 10/10/2008)
10/10/2008	<u>22</u>	FILING ERROR - DEFICIENT DOCKET ENTRY - MOTION for Summary Judgment. Document filed by Fair Finance Company, Inc.. Responses due by 11/7/2008 (Attachments: # 1 Affidavit, # 2 Exhibit A, # 3 Exhibit B, # 4 Exhibit C, # 5 Exhibit D, # 6 Exhibit E, # 7 Exhibit F, # 8 Exhibit G, # 9 Exhibit H, # 10 Exhibit I, # 11 Exhibit J, # 12 Exhibit K, # 13 Exhibit L, # 14 Exhibit M, # 15 Exhibit N - Part 1, # 16 Exhibit N - Part 2, # 17 Exhibit N - Part 3, # 18 Exhibit O - Part 1, # 19 Exhibit O - Part 2, # 20 Exhibit P, # 21 Exhibit Q, # 22 Exhibit R, # 23 Exhibit S, # 24 Exhibit T, # 25 Exhibit U, # 26 Exhibit V, # 27 Exhibit W, # 28 Exhibit X, # 29 Exhibit Y, # 30 Exhibit Z, # 31 Exhibit AA, # 32 Exhibit BB, # 33 Exhibit CC, # 34 Exhibit DD, # 35 Exhibit EE, # 36 Exhibit FF - Part 1, # 37 Exhibit FF - Part 2, # 38 Statement of



		Undisputed Facts, # <u>39</u> Memorandum of Law)(Berger, Glenn) Modified on 10/14/2008 (jar). (Entered: 10/10/2008)
10/10/2008	<u>23</u>	DECLARATION of Roger E. Barton in Support re: <u>19</u> MOTION for Summary Judgment.. Document filed by FCS Advisors, Inc.. (Attachments: # <u>1</u> Exhibit List of Exhibits, # <u>2</u> Exhibit Exhibits 1 and 2, # <u>3</u> Exhibit Exhibits 3-9, # <u>4</u> Exhibit Exhibit 10-12, # <u>5</u> Exhibit Exhibits 13-22, # <u>6</u> Exhibit Exhibits 23-27, # <u>7</u> Exhibit Exhibits 28-30, # <u>8</u> Exhibit Exhibits 31-36, # <u>9</u> Exhibit Exhibits 37-38, # <u>10</u> Exhibit Exhibits 39-42)(Rasey, Randall) (Entered: 10/10/2008)
10/10/2008	<u>24</u>	FILING ERROR - WRONG EVENT TYPE SELECTED FROM MENU (RULE 56.1 STATEMENT) - TRAVERSE to: <u>19</u> MOTION for Summary Judgment., RULE 56.1 STATEMENT. Document filed by FCS Advisors, Inc.. (Rasey, Randall) Modified on 10/14/2008 (jar). (Entered: 10/10/2008)
10/10/2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR. Note to Attorney Glenn Berger to RE-FILE Document <u>22</u> MOTION for Summary Judgment. ERROR(S): Supporting Documents must be filed individually. Notice of Motion must be correctly re-filed then supporting documents linked to correctly re-filed Motion. Use event types Affidavit in Support and Memorandum of Law in Support found under Replies, Oppositions, Supporting Documents. Use event type Rule 56.1 Statement found under Other Answers. (jar) (Entered: 10/14/2008)
10/10/2008		***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - EVENT TYPE ERROR. Note to Attorney Randall Rasey to RE-FILE Document <u>24</u> Traverse, Rule 56.1 Statement. Use the event type Rule 56.1 Statement found under the event list Other Answers. (jar) (Entered: 10/14/2008)
10/14/2008	<u>25</u>	RULE 56.1 STATEMENT. Document filed by FCS Advisors, Inc.. (Rasey, Randall) (Entered: 10/14/2008)
11/07/2008	<u>26</u>	AFFIDAVIT of Timothy Durham in Opposition re: <u>22</u> MOTION for Summary Judgment.. Document filed by Fair Finance Company, Inc.. (Attachments: # <u>1</u> Exhibit A, # <u>2</u> Exhibit B, # <u>3</u> Exhibit C, # <u>4</u> Exhibit D. # <u>5</u> Memorandum of Law, # <u>6</u> Response to Brevet's Statement of Undisputed Facts, # <u>7</u> Certificate of Service)(Monack, Mark) (Entered: 11/07/2008)
11/07/2008	<u>27</u>	MEMORANDUM OF LAW in Opposition re: <u>22</u> MOTION for Summary Judgment.. Document filed by FCS Advisors, Inc.. (Rasey, Randall) (Entered: 11/07/2008)
11/07/2008	<u>28</u>	DECLARATION of Roger E. Barton in Opposition re: <u>22</u> MOTION for Summary Judgment.. Document filed by FCS Advisors, Inc.. (Attachments: # <u>1</u> Statement of Disputed Facts)(Rasey, Randall) (Entered: 11/07/2008)
05/19/2009	<u>29</u>	MEMORANDUM AND OPINION #97530 re: for the reasons that are set forth in this Order, FairFin's motion for summary judgment is denied and Brevet's is granted. Judgment will be entered against FairFin in the amount of \$1,531,371.75, with costs. The Clerk of the Court shall enter judgment accordingly and close the case. (Signed by Judge Denny Chin on 5/19/09) (pl) Modified on 5/21/2009 (mro). (Entered: 05/19/2009)

05/19/2009		Transmission to Judgments and Orders Clerk. Transmitted re: 29 Memorandum & Opinion,, to the Judgments and Orders Clerk. (pl) (Entered: 05/19/2009)
05/20/2009	<u>30</u>	CLERK'S JUDGMENT # 09,0969 That for the reasons stated in the Court's Opinion dated May 19, 2009, FairFin's motion for summary judgment is denied; Brevet's motion for summary judgment is granted; and judgment is entered against FairFin in the amount of \$1,531,371.75, with costs; accordingly, the case is closed. (Signed by J. Michael McMahon, CLERK on 5/20/09) (Attachments: # <u>1</u> NOTICE OF RIGHT TO APPEAL)(ml) (Entered: 05/20/2009)
06/09/2009	<u>31</u>	ORDER: Accordingly, because the contract between FairFin and Brevet was governed by New York law, the New York interest rate of 9% per annum shall apply. For the foregoing reasons, Brevet's motion to amend the judgment is granted. Brevet is entitled to prejudgment interest in the amount of \$176,947.11 and post judgment interest to be calculated by the Clerk of Court at a rate of 9% per annum from May 20, 2009 until the entry of the amended judgment, and interest shall continue to accrue thereafter until payment of the award. The Clerk of Court shall amend the judgment accordingly. (Signed by Judge Denny Chin on 6/9/2009) (jpo) (Entered: 06/09/2009)
06/09/2009		Transmission to Judgments and Orders Clerk. Transmitted re: <u>31</u> Order,, to the Judgments and Orders Clerk. (jpo) (Entered: 06/09/2009)
06/10/2009	<u>32</u>	AMENDED JUDGMENT # 09,0969 amending <u>30</u> Clerk's Judgment, That for the reasons stated in the Court's Opinion dated May 19, 2009, FairFin's motion for summary judgment is denied; Brevet's motion for summary judgment is granted; and judgment is entered against FairFin in the amount of \$1,531,371.75, with costs plus prejudgment interest in the amount of \$176,947.11 and post judgment interest at a rate of 9% per annum from May 20, 2009 until the entry of the amended judgment of \$7,929.57. making a total of \$1,716,248.43, with interest to continue to accrue thereafter until payment of the award; accordingly, the case is closed. (Signed by J. Michael McMahon, clerk on 6/10/09) (Attachments: # notice of right to appeal)(ml) (Additional attachment(s) added on 6/10/2009: # <u>2</u> Amended judgment, # <u>3</u> notice of right to appeal) (ml). (Entered: 06/10/2009)
06/17/2009	<u>33</u>	NOTICE OF APPEAL from <u>32</u> Amended Judgment, <u>30</u> Clerk's Judgment. Document filed by Fair Finance Company, Inc.. Filing fee \$ 455.00, receipt number E 691435. (nd) (Entered: 06/18/2009)
06/18/2009		Transmission of Notice of Appeal to the District Judge re: <u>33</u> Notice of Appeal. (nd) (Entered: 06/18/2009)
06/18/2009		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: <u>33</u> Notice of Appeal. (nd) (Entered: 06/18/2009)
06/18/2009		Appeal Record Sent to USCA (Electronic File). Certified Indexed record on Appeal Electronic Files for <u>29</u> Memorandum & Opinion, <u>5</u> Rule 7.1 Corporate Disclosure Statement filed by Fair Finance Company, Inc., <u>2</u> Rule 7.1 Corporate Disclosure Statement filed by FCS Advisors, Inc., <u>20</u> Declaration in Support of Motion filed by FCS Advisors, Inc., <u>27</u> Memorandum of Law in Opposition to Motion filed by FCS Advisors, Inc., <u>13</u> Amended Complaint,

		filed by FCS Advisors, Inc., <u>16</u> Stipulation and Order, Set Deadlines,, <u>1</u> Complaint filed by FCS Advisors, Inc., <u>14</u> Notice of Appearance filed by FCS Advisors, Inc., <u>8</u> Letter, <u>26</u> Affidavit in Opposition to Motion, filed by Fair Finance Company, Inc., <u>23</u> Declaration in Support of Motion, filed by FCS Advisors, Inc., <u>21</u> Memorandum of Law in Support of Motion filed by FCS Advisors, Inc., <u>9</u> Order Case Eligible for Mediation, <u>15</u> Endorsed Letter, <u>19</u> MOTION for Summary Judgment, filed by FCS Advisors, Inc., <u>17</u> Answer to Amended Complaint, Counterclaim,, filed by Fair Finance Company, Inc., <u>12</u> Order, Set Scheduling Order Deadlines,, <u>32</u> Amended Judgment... <u>4</u> Stipulation and Order, Set Deadlines/Hearings, <u>10</u> Endorsed Letter, Set Deadlines/Hearings,, <u>30</u> Clerk's Judgment, <u>33</u> Notice of Appeal filed by Fair Finance Company, Inc., <u>28</u> Declaration in Opposition to Motion filed by FCS Advisors, Inc., <u>25</u> Rule 56.1 Statement filed by FCS Advisors, Inc., <u>18</u> Endorsed Letter, Set Deadlines/Hearings,, <u>31</u> Order,, <u>7</u> Answer to Counterclaim filed by FCS Advisors, Inc., <u>6</u> Answer to Complaint, Counterclaim filed by Fair Finance Company, Inc., <u>3</u> Affidavit of Service Complaints filed by FCS Advisors, Inc. were transmitted to the U.S. Court of Appeals. (nd) (Entered: 06/18/2009)
06/19/2009	<u>34</u>	NOTICE of Hearing, Document filed by FCS Advisors, Inc.. (Rasey, Randall) (Entered: 06/19/2009)
06/29/2009	<u>35</u>	BILL OF COSTS <i>Defendant's Objections to Plaintiff's Bill of Costs</i> Document filed by Fair Finance Company, Inc..(Berger, Glenn) (Entered: 06/29/2009)
07/14/2009		USCA Case Number 09-2609-cv from the US Court of Appeals, 2nd Circuit assigned to <u>33</u> Notice of Appeal filed by Fair Finance Company, Inc.. (nd) (Entered: 07/14/2009)
08/13/2009	<u>36</u>	ORDER: Accordingly, Brevet's motion to register this Court's judgment in Ohio and Indiana is granted. (Signed by Judge Denny Chin on 8/13/2009) (jfe) (Entered: 08/13/2009)
09/15/2009	<u>37</u>	ORDER: Defendant's request for a twenty-day extension to respond to plaintiff's discovery requests is granted, but only for ten days. Defendant shall respond to all outstanding discovery requests by 9/25/09. (Signed by Judge Denny Chin on 9/15/09) (tro) (Entered: 09/15/2009)
09/15/2009	<u>38</u>	ORDER: Defendant's request for a twenty-day extension to respond to plaintiff's discovery requests is granted, but only for ten days. Defendant shall respond to all outstanding discovery requests by September 21, 2009. his order supersedes the Court's prior order, also issued today, which ordered defendant to respond by September 25, 2009. (Signed by Judge Denny Chin on 9/15/2009) (jpo) (Entered: 09/16/2009)
10/01/2009	<u>39</u>	ENDORSED LETTER addressed to Judge Denny Chin from Roger E. Berton dated 9/29/09 re: On behalf of Brevet, the Court's permission to register the judgment against FairFin in the district courts of Texas. ENDORSEMENT: No pre-motion conference is required. This letter is treated as a motion, and it is granted. Brevet may register the judgment in the courts of Texas. (Signed by Judge Denny Chin on 10/1/09) (tro) (Entered: 10/02/2009)
10/28/2009	<u>40</u>	ENDORSED LETTER addressed to Judge Denny Chin from Roger E. Baton

		dated 10/28/2009 re: Requesting a one week adjournment of the pre-motion conference currently scheduled for October 30, 2009. ENDORSEMENT: Adjourned to November 6, 2009, at 10:30 a.m. (Signed by Judge Denny Chin on 10/28/2009) (jpo) (Entered: 10/28/2009)
11/05/2009	<u>41</u>	Supersedeas BOND # K07979514 in the amount of \$ 1,905,036.00 posted by Fair Finance Company, Inc.. (ml) (Entered: 11/05/2009)
11/05/2009	<u>42</u>	ENDORSED LETTER addressed to Judge Denny Chin from Roger Barton dated 11/5/09 re: Request to adjourn the 11/6/09 pre-motion conference. ENDORSEMENT: Adjourned to 11/13/09, at 11:30 am. ( Pre-Motion Conference reset for 11/13/2009 at 11:30 AM before Judge Denny Chin.) (Signed by Judge Denny Chin on 11/5/09) (cd) (Entered: 11/06/2009)
11/06/2009	<u>43</u>	Supersedeas BOND # K07979514 in the amount of \$ 1,905,036.00 posted by Fair Finance Company, Inc. This Bond supersedes bond previously filed. (ml) (Entered: 11/06/2009)
11/10/2009	<u>44</u>	ORDER: It is hereby Ordered as follows: 1. The Supersedeas Bond filed by defendant Fair Finance Company, Inc. on November 6, 2009 to secure its appeal from the Amended Judgment entered in this action be, and hereby is, approved; 2. All liens, garnishments, executions, levies, discovery demands, and all other judgment enforcement remedies and proceedings taken in connection with the enforcement of the Amended Judgment herein be, and hereby are, vacated and dissolved; and 3. All proceedings to enforce the Amended Judgment herein be, and hereby, are stayed pending determination of the appeal in this action. (Signed by Judge John F. Keenan (Part One Judge on 11/10/09) (js) (Entered: 11/12/2009)

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